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Washington State Liquor Control Board

Olympia, Washington 98504

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BULLETIN NO. 119

BEER AND WINE ITEMS MAY BE CLOSED OUT AT LESS THAN COST

TO: Beer Wholesalers and Wine Wholesalers

It has come to the attention of the Board that there is a misunderstanding among some wholesalers that they are prohibited from closing out, below cost, beer or wine items which they wish to discontinue handling.

Items to be discontinued may be closed out below cost, if such close-outs are handled in the manner prescribed by Regulation (49)(7) for beer and Regulation (81)(9) for wine. These regulations are based upon provisions of the Unfair Practices Act, RCW 19.90, which applies to the sale of all commodities, not just liquor.

RCW 19.90 provides, in part, as follows:

19.90.040 Price cutting practices forbidden--Generally. It shall be unlawful for any person engaged in business within this state to sell any article or product at less than the cost* thereof to such vendor, or give away any article or product, for the purpose of injuring competitors or destroying competition, or to use any article or product as a "loss leader," or in connection with any sale to make or give, or to offer to make or give, any special or secret rebate, payment, allowance, refund, commission or unearned discount, whether in the form of money or otherwise, or to secretly extend to certain purchasers special services or privileges not extended to all purchasers purchasing upon like terms and conditions, or to make or enter into any collateral contract or device of any nature, whereby a sale below cost is effected, to the injury of a competitor, and where the same destroys or tends to destroy competition.

Exceptions for "close-outs" and to meet competition provide, in part, as follows:

PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360P
EXHIBIT NO.	052

Resp to Costco RFP
8355